

Superfund Update

Judge to Rule on GE Lawsuit; Hudson River Cleanup Stalled

General Electric (GE) will have to perform additional cleanup of the Hudson River Superfund site if a New York lawsuit is successful, according to officials.

The New York State Attorney General's (AG) office is anxiously awaiting a decision by a county judge regarding its lawsuit against GE for contaminating the Hudson River with polychlorinated biphenyls (PCB).

GE has filed a motion to dismiss the suit, announced last November by Attorney General Eliot Spitzer. The case is under consideration at the Albany County Supreme Court.

Judge Stephen Ferradino could make a decision in a few weeks or in several months, AG spokeswoman Judith Enck told *HWN*. "I'm real curious," she said.

The suit charges that GE should pay the extra cost of dredging the Champlain Canal, made more expensive because of the presence of PCBs. The state has opted not to dredge that area of the river because of the extra cost of contamination.

The suit is not connected to the Hudson River cleanup efforts of EPA and the New York State Department of Environmental Conservation (DEC), the AG has said.

Dredging Plan on Hold

EPA expects to issue a proposed plan at the end of the year for a portion of the site. It likely will include dredging — a point of contention in Congress, which has ordered EPA not to order dredging until the National Academy of Sciences releases a report on its effectiveness.

Earlier this year, DEC released a \$9.4 million record of decision to treat PCBs and other contamination at GE's Fort Edward facility. Material along the riverbank was contaminated by wastewater discharged from the plant during manufacturing operations. About 8,700 cubic yards of PCB-contaminated material will be removed from about 1,350 feet of the riverbank and taken off site.

Also under the remedy, ground water underneath the manufacturing area, contaminated with

PCBs and volatile organic compounds, will be treated at an existing plant. An existing recovery system will be expanded to collect a pool of PCB oil beneath the plant parking lot.

DEC also proposed a cleanup plan for a GE facility in Hudson Falls. This includes demolition of former manufacturing buildings, excavation and on-site treatment of PCB-contaminated soil, and continued operation of existing ground water and PCB-oil recovery systems. Including the continuation of ongoing interim remedial measures, this remedy is estimated at \$28.4 million. The Hudson Falls site has had major PCB cleanups since 1993, including a sediment removal project.

Lawsuit to Cause Delays


DEC criticized the AG's lawsuit as soon as it was announced, contending that it would delay the agency's efforts to clean the river. Agency Commissioner John Cahill argued that focusing on the Champlain Canal would divert the effort to remediate the sources of the PCBs.

"Rather than end the stalemate on PCBs, as the Attorney General claims, we are concerned that this lawsuit may instead very well lead to delays and lessen the state's legal position in the future," Cahill said. "To believe that the lawsuit by the Attorney General will mean quicker remediation of the river is simply a mistake."

But Enck from the AG's office called Spitzer's action a "surgical" lawsuit, dealing strictly with the upriver area. She denied that it was sweeping enough to slow down other cleanups.

"Unfortunately," she said, "there are enough PCB opportunities to go around." *Contacts:* Judith Enck, Spitzer's office, (518) 473-9037; Jennifer Post, NYSDEC spokeswoman, (518) 457-5400; Mark Behan, GE spokesman, (518) 792-3856.

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Superfund Update

Dredging PCBs From Superfund Sites Increases Contamination, Study Finds

A recent study of the Manistique River and Harbor Superfund site could help companies defend against dredging large-scale projects.

Blasland, Bouck & Lee (BB&L), Rochester Hills, Mich., conducted the study, *Dredging-Related Sampling of Manistique Harbor*, for the responsible parties at the Fox River site in Green Bay, Wis., which was proposed to the National Priorities List in July 1998. Even though the Manistique is not related to the Fox River site, the responsible parties are using it as an example to dissuade EPA from implementing what they charge is an agency plan to dredge the whole Fox River.

Whether expensive dredging projects are a viable remedy choice or cause more damage has become increasingly controversial as EPA looks to implement dredging at Fox River and other sites such as the Hudson River site in New York (*HWN*, June 26, p. 203).

PCB Concentration Rises

BB&L's sampling in the Manistique, which followed dredging in the 1998 construction season, indicated higher levels of polychlorinated biphenyls (PCB) levels than in 1993 and subsequent sampling years, according to the report.

"Data suggest that dredging has removed a protective barrier of lower concentration sediments which has exposed a layer of higher concentration sediments," the report said. The highest concentration of PCBs detected in surface sediments in 1999 was 390 parts per million (ppm), compared with 90 ppm before dredging began in 1993. The latest round of sampling showed average surface sediment concentrations to be 19 ppm, compared to a 14 ppm average in 1993. EPA initiated five rounds of dredging at the site, beginning in 1995.

"Data from this study and previous studies indicate that dredging activity has not yet yielded significant reductions in PCB exposure over large areas of the site, and instead may have resulted in increased PCB exposure within some areas," the report concluded.

Contact: Doug McLaughlin, BB&L, (920) 991-0014.

Montana Site Cleanup Blocked By Milltown Dam Controversy

Responsible parties may have to remove a dam at a Montana site if an EPA feasibility study determines that it is the most effective remedy.

Milltown Dam has become the center of a controversy at the Missoula, Mont., Superfund site. Environmentalists want the dam removed to improve fishing while ARCO Environmental Remediation hopes to remediate the site with the dam in place. However, dam removal is just one option among many, EPA project manager Russ Forba told *HWN*.

EPA will wait until its feasibility study is released before the agency can determine what to do at the site. Options range from no action with institutional controls at little cost to full dam and sediment removal at considerable cost, he said. The agency also might choose options somewhere in between, such as partial sediment removals or complete sediment removal and maintaining the dam. All options would require a replacement water supply because ground water and surface water are contaminated with heavy metals at the site.

EPA may be leaning toward sediment removal because of the ground water.

"Removing sediment would take care of the ground water contamination problem," Forba said. "We now have to determine whether sediment management instead of removal would work."

The Clark Fork Coalition, an environmental group that follows issues involving the Clark Fork River where the dam is located, would prefer complete sediment removal and the dam destroyed.

"It doesn't make sense to keep the dam because it generates 3 megawatts of power, loses money for Montana Power, and creates a habitat for northern pike, which eat trout," said Tracy Stone-Manning, director of Clark Fork Coalition.

Partial sediment removals creates more problems than it would fix, she added. If the government is going to spend the money on the Superfund cleanup, it should do it correctly, Stone-Manning told *HWN*.

ARCO Environmental Remediation, which was recently merged with BP Amoco and is the sole responsible party at the site, is conducting its own feasibility study, Forba said. ARCO could not be reached for further comment. Contacts: Russ Forba, EPA, (406) 441-1123; Tracy Stone-Manning, Clark Fork Coalition, (406) 542-0539.

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Superfund Recycling Exemption Limits Number of Responsible Parties at Site

Cleanup at a Tennessee Superfund site has been put on hold while EPA sorts out who now is liable for the costs. The confusion results from last year's Superfund Recycling Equity Act (SREA), which could halt progress at more sites.

SREA has delayed cleanup at the Ross Metals Superfund site in Rossville, Tenn., said Beth Brown, EPA project manager for the 15-acre site. Ross Metals, a scrap metal company, processed automotive and industrial batteries and lead-bearing materials for recycling at the site and 200 surrounding acres until 1992.

"We were in the middle of negotiations and were close to having a signed consent agreement with the PRPs [potentially responsible parties] in November when the recycling act was passed," Brown said. "When the act was passed, it called into question which of those PRPs is still liable. EPA has not made a decision on that."

With negotiations dismantled by the act, cleanup is in limbo, Brown said.

Remedial design remains on hold until negotiations are settled despite a \$7.4 million record of decision for soil and sediment excavation that is in place.

Guidance Needed

Representatives of trade groups and scrap metal companies told EPA officials in Washington to issue a guidance explaining how scrap recyclers can avoid liability by meeting SREA's requirement (*HWN*, Aug. 7, p. 250).

"The EPA *should* issue a guidance," Brown said. "We need some clarification. Whether that comes out in policy, regulations or a guidance, it doesn't matter. But we need something to let us know how to apply this law."

To promote the reuse and recycling of scrap material and to reduce the amount of waste going to landfills, SREA amends the Comprehensive Environmental Response, Compensation and Liability Act by exempting from responsibility anyone "who arranged for recycling of recyclable material." The term recyclable material is defined as scrap paper, plastic, glass, textiles, rubber (other than whole

tires), metal, spent lead-acid, spent nickel-cadmium and other spent batteries as well as minor amounts of material incident to or adhering to the scrap material as a result of its normal and customary use prior to becoming scrap."

Before the act became law, more than 100 PRPs would have contributed to cleanup at the Ross Metals site. "Now I don't know how many there are because of the act," Brown said. "We don't know who the PRPs are because we don't have an interpretation of the law." *Contact:* Beth Brown, EPA, (800) 435-9233.

A Second Report Discredits Dredging; Fox River Becomes More Contaminated

Dredging rivers as part of remedies for Superfund sites continues to generate controversy. The most recent comes from Wisconsin as another report finds dredging increases, not decreases, hazardous waste contamination.

Blasland, Bouck & Lee (BB&L), Rochester Hills, Mich., studied dredging of polychlorinated biphenyl (PCB) contamination at the Deposit N and Sediment Management Unit (SMU) 56/57 areas of the Fox River Superfund Site in Wisconsin.

The report found that "dredging did not significantly reduce PCB or organic carbon adjusted PCB concentrations. At SMU 56/57, when dredging was halted in December 1999, average surface sediment PCB concentrations had increased 21 times.

Post-dredge surface sediment PCB concentrations remained well above the 0.25 level proposed in the draft Lower Fox River RI/FS. BB&L also took a jab at dredging in June when it released a study for Fox River Group that found increased contaminants after PCB dredging in Michigan's Manistique River (*HWN*, July 17, p. 226).

EPA and the Wisconsin Department of Natural Resources, however, released updates this summer saying that both demonstration projects are going well and have shown promising results. The agencies have not released a proposed plan, but at this point, plans to begin dredging will not be changed.

The National Academy of Sciences expects to release a report this fall on the effectiveness of dredging as a remedy.

Contacts: Jim Hahnenburg, EPA project manager, (312) 353-4213; Mark Lindley, Fort James Corp., (847) 317-5280; BB&L, (315) 446-9120.

*Brownfields 2000***Decision-Making Central to Avoiding Environmental Justice Issues at Sites**

ATLANTIC CITY, N.J., — Brownfield redevelopers can prevent environmental justice headaches if they include minority communities from the beginning on strategic planning decisions, according to speakers at EPA's *Brownfields 2000* conference Oct. 10-13.

Getting communities involved is the first step, but companies need to keep them involved throughout the project with education and communication, said Ray Scattone, a researcher with the University of Delaware.

"Community involvement is more than a seat at the table," he said. "Residents need to be part of the decision-making."

Communities Beware

In some cases, project managers work with communities only to get something in return, said Gail Horwitz, an attorney with New York Lawyers for Public Interest, which fights environmental justice issues in New York City. A community in Brooklyn, N.Y., worked with redevelopers on a reuse plan. The community requested 100 acres of green space, which the project leaders approved, she said. The community also got other concerns met during negotiations, which ended with a letter from the community accepting the project.

However, when the planners applied to the state, they changed the redevelopment project without informing the community and submitted the letter with the application, Horwitz said. The community now is concerned that the residents may never see the green space promised.

"Residents have other environmental justice concerns at the site as well. We do not consider this project to have total community involvement even though the organizers would say differently," Horwitz said.

Job training opportunities also can help impoverished communities, said Francisco Saracho, a researcher with Universidad Metropolitana in Puerto Rico. The university is working on getting poor residents trained as certified environmental technicians to improve their livelihoods. However, the program suffers from many obstacles, such as low retention rates and absenteeism from students.

Contacts: Gail Horwitz, New York Lawyers for Public Interest, (212) 244-4664; Francisco

Saracho, Universidad Metropolitana, (787) 766-1717; Ray Scattone, University of Delaware, (302) 831-8405.

*Budget 2001***Senators Hagggle Over Dredging Superfund Sites, Pass Funding**

The Senate approved the 2001 Veterans Administration-Housing and Urban Development Agencies (VA-HUD) appropriations bill giving EPA a record \$7.8 billion, but the issue of dredging Superfund sites held up the funding.

The 87-8 vote that passed the measure Oct. 12 provides funding for EPA, the National Aeronautics and Space Administration and the Council on Environmental Quality.

Sen. Barbara Boxer (D-Calif.) attempted to alter some of the troubling provisions by offering "sense of the Senate" language to blunt the rider delaying EPA action on dredging contaminated sediment from rivers, but Boxer's language was rejected. The bill satisfies President Clinton's funding requests and surpassed his \$7.15 billion recommendation for EPA.

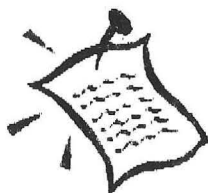
The VA-HUD bill had sparked a battle over numerous environmental riders including one tucked inside that would impact Superfund. The rider would prevent EPA from ordering dredging of contaminated river bottoms until the National Academy of Sciences (NAS) has completed a study on whether dredging is, in fact, an effective remedy. NAS is expected to submit a report this fall.

New York-based environmental advocacy group Water Keepers Alliance calls the potential impact of retaining the rider "potentially devastating." Kevin Madonna, executive director of the Alliance, characterized the move of General Electric (GE) to delay dredging along the 312-mile Hudson River as politically motivated.

"Its entire [public relations] campaign has been to push back this decision until after the election. [GE officials] are hoping for a Republican president," Madonna said.

The long-term impact of keeping the rider attached to EPA funding would ensure that the levels of contaminated sediment in affected rivers would continue to mount, Madonna said.

Officials at GE could not be reached for comment. *Contacts:* Kevin Madonna, Water Keepers Alliance, (914) 422-4410; GE (203) 373-2211.



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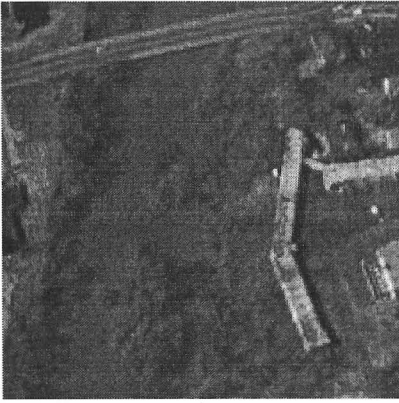
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NRC's Guidelines to Evaluate Options For Contaminated Sediments at Sites

Authors of an eagerly awaited government study hope it will provide a blueprint for evaluating different methods of remediating polychlorinated biphenyl (PCB)-contaminated underwater sediments but warned that it will not address specific Superfund sites or dredging.

The National Research Council (NRC) expects to release its report, *Remediation of PCB-Contaminated Sediments*, by early next year, a spokesman told *HWN*.

Industry, government and environmental groups looking for a definitive answer on the efficacy of dredging PCB-contaminated sites may have to look elsewhere.

"This is not a dredging report," project officer Roberta Wedge told *HWN*. "This is a framework — a process people can use to look at the risks and recommendations on how to manage contaminated sediments."

Among those hoping the NRC would settle the dredging question are Congress, New York state and EPA, which are trying to force General Electric (GE) to dredge its Superfund site in the Hudson River. Last month, a New York court denied the state's economic damage claim that PCB contamination from the company's plants is preventing dredging that would improve navigation on the river (*HWN*, Oct. 2, p. 310). Meanwhile, the Congress approved and the president signed an anti-dredging rider to the 2001 Veterans Administration-Housing and Urban Development appropriations bill (*HWN*, Oct. 16, p. 324).

Risk-Based Framework Set

The report will establish a scientific, risk-based framework for evaluating the effectiveness and human health and ecological impacts of different remediation techniques. NRC assessed and compared natural recovery, source control, dredging and capping, and sediment disposal.

The committee on PCB-contaminated sediments just completed a round of open and closed-door meetings to consider recent studies, some of which concluded that dredging increases hazardous waste contamination. Members also heard from representatives of GE, the New York State De-

partment of Health, EPA and Hudson River environmental groups. NRC staff and committee members currently are reviewing their draft of *Remediation of PCB-Contaminated Sediments*. It will go out for peer review before release.

The current project is an outgrowth of a 1997 NRC report that called on EPA and state authorities to "play more of a role in identifying industries and other sources responsible for generating contaminants and hold them accountable for sediment cleanup," including making stronger use of legal and enforcement tools.

That report concluded that without new technologies on the horizon for treating large volumes of contaminated sediments effectively and economically, "in the near term, improvements in sediment management will need to be rooted in better decision-making that brings about more balanced, efficient and expeditious solutions." *Contact*: Roberta Wedge, NRC, (202) 334-2018.

Nonminorities Live Near Waste Sites In Baltimore, Ohio Researchers Find

Baltimore residents living near Superfund or brownfield sites are not likely to be minority groups, according to research by Ohio University, a finding that challenges an earlier study by the University of Dallas.

Christopher Boone, a geographer with the university, reported that 22 percent of black residents live near hazardous waste sites, but 34 percent of whites live in zones where chemicals are released into the environment. The city's history of segregation contributed to the trend, Boone said.

A study by the University of Texas-Dallas and the *Dallas Morning News* found that minorities are more likely to live near brownfields or Superfund sites (*HWN*, Oct. 30, p. 338). Boone's research questions those results, at least for Baltimore. The Maryland city is probably the opposite of the national trend, said a Johns Hopkins professor.

Baltimore canneries and steel mills hired white people in the past, said Neil Hertz, who teaches a class on the city's history. A 1910 ordinance segregated blacks from waterfront factory jobs. And restrictive covenants banned the sale of homes to blacks in the area until the 1960s, he said.

To reach his conclusion, Boone matched Baltimore neighborhoods with Toxic Release Inventory reports of companies. He also used census data of neighborhoods near the firms. *Contact*: Christopher Boone, Ohio University, (740) 695-1720.

Superfund Update

GE, EPA Differ on Risks Posed By PCBs in Hudson, GAO Says

Differences in computer models developed by EPA and General Electric (GE) to predict polychlorinated biphenyls (PCB) levels in the Hudson River could lead to different conclusions about the risks posed by contamination in the river.

According to a General Accounting Office (GAO) report to congressional requesters, *Information Regarding EPA's Cleanup Decision Process on the Hudson River Site*, the models are generally similar in structure but differ in certain technical respects, particularly concerning the level of complexity and detail used to describe how PCBs behave in the environment.

These differences could lead to different conclusions regarding the extent to which PCBs pose an unacceptable level of risk to human health and the environment, the report said.

Both EPA's and GE's models consist of four linked components: a hydrodynamic model framework to estimate sediment erosion, a sediment transport model to describe the movement of contaminated PCB sediments in the river, a PCB fate and transport model to predict PCB levels in sediment and water, and a bioaccumulation model to predict PCB levels in fish.

Never Assume, GE Says

However, there were differences in the two models. For example, for the hydrodynamic model, EPA looked at six miles of the Hudson River while GE analyzed the entire 40-mile upper Hudson River for its report.

EPA also assumed that particles suspended in the water settle down to the surface sediment at a constant rate while GE thought the impact of water flow and particle size would change the settling rate of PCBs.

Overall results from both models show that under a no action plan PCB levels in the Hudson River would decline over time but at different rates and that a major flood would probably not significantly release PCBs that have been buried in the sediment, GAO said.

GE's model is more complex and detailed than the agency's in some areas, EPA said. GE's approach is not necessary, officials added.

EPA's modeling effort is designed to answer the questions: if no cleanup action is taken at the site, when will PCB levels in the fish population recover to acceptable levels for human health and the environment; can cleanup actions significantly shorten the time required to achieve acceptable risk levels; what is the risk that, following a major flood, PCBs that were buried by new, cleaner sediments would be released into the environment.

EPA Defends Model

EPA modelers believe their model has performed well in capturing historical site data, and peer review comments on their model have been generally positive. Further, they believe their model is a good tool for describing and predicting PCBs behavior in the Hudson River.

Differences between the two models are generally a matter of professional judgment and do not reflect "flaws" in either approach, according to EPA modelers.

EPA's computer model will be used along with geochemical work, data analyses and risk assessments to select a cleanup remedy for the Hudson River.

GE currently is fighting EPA over whether they should be forced to use dredging to clean up the Hudson River Superfund site. GE does not want to dredge the river (*HWN*, Oct. 2 p. 310).

The GAO report also listed the processes EPA used to obtain and respond to scientific and technical comments on its modeling and other assessment studies. EPA used three principal processes: peer reviews conducted on the agency's major work products, an extensive public participation process and consultations with interested federal and state agencies and with GE.

Currently, EPA is finalizing its cleanup options, including taking no action, and expects to issue a proposed cleanup plan by December. After a public comment period of at least 60 days, EPA will prepare a Responsiveness Summary to address public comments on its proposal and develop a record of decision, which it expects to issue by June 2001. *Contact:* Rich Cahill, EPA, (212) 637-3000. To order a copy of the report contact GAO (202) 512-6000.

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